IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

WP(C).No. 4211 of 2007(B)

PETITIONER:

RATHEESH, AGED 30 YEARS,
S/O.SUKUMARAN, MARIKKAN VEETTIL,
PARAPURAM DESOM, KAKULISSERRY VILLAGE,
THRISSUR DISTRICT.

BY ADV. SRI.M.V.THAMBAN
SRI.SREEKANTH.K.R
SMT.THARA THAMBAN

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB-INSPECTOR OF POLICE,
MALA POLICE STATION, THRISSUR DISTRICT.

BY GOVERNMENT PLEADER ADV.SRI. S.U. NAZER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P (C) 4211/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT.P1: CERTIFIED COPY OF THE FIRST INFORMATION REPORT DATED 26.1.2006 IN CRIME NO.40/2006

(TRUE COPY)

R.BASANT, J

W.P(C).No.4211 of 2007

Dated this the 7th day of February, 2007

JUDGMENT

The petitioner faces allegations under the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as `the Act'). An F.I.R has been registered against him. Investigation is in progress. The petitioner has come to this Court with a prayer that the proceedings against him may be quashed. Final report has not been filed so far.

2. What is the reason ? The learned counsel for the petitioner submits that the Sub Inspector is not duly authorised under Section 22 of the Act to file a complaint. This contention cannot obviously stand in the light of G.O(MS) No.94/91/1D dated 23.06.1991. Clause 3 of the schedule to that order shows clearly that police officers of and above the rank of Sub Inspector in the State is notified to be persons competent to make a complaint under Section 22 of the Act. This contention cannot obviously stand. Moreover, the final investigation is not complete and the question of filing a complaint and taking cognizance will arise only thereafter. Even assuming that the investigator has no competence under Section 22 of the Act, the investigation cannot be held to be bad for that reason alone.

3. Section 21(6) of the Act makes it clear that the offence alleged against the petitioner is a cognizable offence. Once it is shown to be cognizable, the police officer is bound to register a crime and investigate into it. The powers of an officer to investigate into a cognizable offence is recognised under the Code of Criminal Procedure and the investigator cannot be said to have committed any error warranting invocation of the powers under Section 482 Cr.P.C when he is investigating into a cognizable offence after registration of the crime. In these circumstances, I do not find any merit in this Writ Petition. This Writ Petition is, accordingly dismissed.

(R.BASANT, JUDGE)

rtr/-